



General Assembly

January Session, 2021

Raised Bill No. 6646

LCO No. 5545



Referred to Committee on PLANNING AND DEVELOPMENT

Introduced by:
(PD)

AN ACT CONCERNING CRUMBLING CONCRETE FOUNDATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 29-265d of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) Any owner of a residential building who has obtained a written
4 evaluation from a professional engineer licensed pursuant to chapter
5 391 indicating that the foundation of such residential building was made
6 with defective concrete may provide a copy of such evaluation to the
7 assessor and request a reassessment of the residential building by the
8 assessor. Not later than ninety days after receipt of a copy of such
9 evaluation, or prior to the commencement of the assessment year next
10 following, whichever is earlier, the assessor, member of the assessor's
11 staff or person designated by the assessor shall inspect the residential
12 building and adjust its assessment to reflect its current value. Such
13 reassessment may be appealed pursuant to section 12-111. Any
14 reassessment under this section shall apply [for five assessment years]
15 until the assessor, member of the assessor's staff or person designated
16 by the assessor adjusts the assessment of the residential building

17 pursuant to subsection (b) of this section, notwithstanding the
18 provisions of section 12-62.

19 (b) An owner of a residential building that has obtained a
20 reassessment pursuant to this section shall notify the assessor if the
21 concrete foundation is repaired or replaced. [during the five assessment
22 years for which the reassessment is effective.] Such notification shall be
23 made in writing within thirty days of the repair or replacement of the
24 concrete foundation. Not later than ninety days after receipt of such
25 notification, or prior to the commencement of the assessment year next
26 following, whichever is earlier, the assessor, member of the assessor's
27 staff or person designated by the assessor shall inspect the residential
28 building and adjust its assessment to reflect its current value.

29 Sec. 2. Subsection (i) of section 38a-91vv of the general statutes is
30 repealed and the following is substituted in lieu thereof (*Effective July 1,*
31 *2021*):

32 (i) The captive insurance company shall continue [until June 30, 2022,
33 or] until its existence is terminated by law. Upon the termination of the
34 existence of the company, all its right and properties shall pass to and
35 be vested in the state of Connecticut.

36 Sec. 3. (NEW) (*Effective July 1, 2021*) (a) For the purposes of this
37 section, "qualified geologist" means a geologist certified by the
38 American Institute of Professional Geologists, licensed by the National
39 Association of State Boards of Geology or certified or licensed by
40 another organization deemed suitable by the State Geologist.

41 (b) Not later than January 1, 2022, and annually thereafter, the
42 operator of each quarry in this state that produces aggregate for use in
43 concrete shall prepare a geological source report and provide such
44 report to the State Geologist. Such report shall be prepared in a form and
45 manner prescribed by the State Geologist, and shall include, but need
46 not be limited to, (1) the operations plan and mining, processing, storage
47 and quality control methods utilized by such operator, (2) a description
48 of the characteristics of the aggregate to be excavated at such quarry,

49 which shall be prepared by a qualified geologist, (3) a description of the
50 products to be produced by such quarry, (4) a copy of the results of an
51 inspection of face material and geologic log analysis completed in the
52 previous year by a qualified geologist, and (5) analyses of core samples,
53 completed in the previous year by a qualified geologist, unless such
54 quarry has a satisfactory performance history as determined by the State
55 Geologist.

56 Sec. 4. (NEW) (*Effective from passage*) (a) Not later than January 1, 2023,
57 the Commissioner of Consumer Protection shall, in consultation with
58 the State Geologist, adopt regulations, in accordance with chapter 54 of
59 the general statutes, to develop standards for the testing of aggregates
60 produced by quarries for use in the production of concrete. Such
61 standards shall include, but not be limited to, a requirement that such
62 aggregates be tested to determine the total sulfur content of the
63 aggregates, and identify the presence of pyrrhotite.

64 (b) The standards developed pursuant to subsection (a) of this section
65 shall minimally require:

66 (1) The performance of a rapid total sulfur test on a ten-pound sample
67 of aggregate by any of the following means: (A) X-ray fluorescence
68 analysis, (B) purge and trap gas chromatography analysis, or (C)
69 analysis by combustion furnace;

70 (2) That if the results of the test performed pursuant to subdivision
71 (1) of this subsection reveal that the total sulfur content of the sample in
72 per cent by mass is (A) less than one-tenth per cent, the aggregate shall
73 be approved for use for a period of four years, and the results of the test
74 shall be filed with the State Geologist, (B) equal to or greater than one
75 per cent, the aggregate shall not be permitted for use, and (C) less than
76 one per cent and equal to or greater than one-tenth per cent, the sample
77 shall be subjected to the standards described in subdivision (3) of this
78 subsection; and

79 (3) If the total sulfur content of the sample in per cent by mass is less
80 than one per cent and equal to or greater than one-tenth per cent, the

81 performance of x-ray diffraction, magnetic susceptibility or
82 petrographic analyses to determine the presence and relative
83 abundance of pyrrhotite in the sample. If no pyrrhotite is present in the
84 sample, the aggregate shall be approved for use for a period of one year
85 and the results of the test shall be filed with the State Geologist. If
86 pyrrhotite is present in the sample, a petrographic analysis shall be
87 conducted to determine the acceptance and use of the aggregate.

88 Sec. 5. (NEW) (*Effective from passage*) (a) For the purposes of this
89 section:

90 (1) "Authority" means the Connecticut Housing Finance Authority
91 created pursuant to section 8-244 of the general statutes;

92 (2) "Captive insurance company" means the captive insurance
93 company established pursuant to section 38a-91vv of the general
94 statutes, as amended by this act;

95 (3) "Pledged revenues" means deposits transferred pursuant to
96 subdivision (2) of subsection (c) of section 38a-331 of the general
97 statutes, as amended by this act, to the Crumbling Foundations
98 Assistance Fund, established pursuant to section 8-441 of the general
99 statutes; and

100 (4) "Revenue bonds" means bonds issued by the authority pursuant
101 to this section.

102 (b) The authority shall have the power to make loans from time to
103 time to the captive insurance company for the purposes of funding the
104 payment of claims by the captive insurance company. Any such loans
105 shall be deposited into the Crumbling Foundations Assistance Fund,
106 established pursuant to section 8-441 of the general statutes, and repaid
107 by the captive insurance company solely from pledged revenues.

108 (c) The authority shall have power to issue bonds in an aggregate
109 principal amount not to exceed one hundred million dollars, the
110 proceeds of which shall be used to make loans to the captive insurance

111 company pursuant to subsection (b) of this section, pay the costs of
112 issuance and capitalized interest and fund any necessary reserves,
113 including, but not limited to, any special capital reserve fund
114 established by the authority. All powers of the authority with respect to
115 the issuance of bonds, including, but not limited to, the establishment of
116 any special capital reserve fund, shall be applicable to the issuance of
117 revenue bonds.

118 (d) To secure the repayment of such bonds, all amounts paid and to
119 be paid to the authority pursuant to section 38a-331 of the general
120 statutes, as amended by this act, are irrevocably assigned and pledged
121 to the authority to secure the due and punctual payment of the principal
122 of and interest on revenue bonds and redemption premium, if any, with
123 respect to such bonds. Such assignment and pledge shall continue in
124 existence if the Crumbling Foundations Assistance Fund, established
125 pursuant to section 8-441 of the general statutes, or captive insurance
126 company are no longer in existence. Such assignment and pledge shall
127 secure all revenue bonds equally and be prior in interest to any claim of
128 any party to such pledged revenues, including any holder of general
129 obligation bonds of the state. The pledge of pledged revenues in this
130 section is made by the state by operation of law through this section,
131 and as a statutory lien is effective without any further act or agreement
132 by the state, and shall be valid and binding from the time the pledge is
133 made, and any revenues or other receipts, funds or moneys so pledged
134 and received by the state shall be subject immediately to the lien of such
135 pledge without any physical delivery thereof or further act. The lien of
136 any such pledge shall be valid and binding as against all parties having
137 claims of any kind in tort, contract, or otherwise against the state,
138 irrespective of whether such parties have notice thereof. In the
139 proceedings authorizing any revenue bonds, the authority may pledge
140 such revenues to secure payment of such revenue bonds and may direct
141 payment of the pledged revenues directly to the trustee under the
142 indenture providing for the issuance of the revenue bonds. Any pledged
143 revenues not required pursuant to the terms of any such indenture to be
144 held or used for payment of the revenue bonds may be released to the

145 authority for payment over to the Crumbling Foundations Assistance
146 Fund, established pursuant to section 8-441 of the general statutes, for
147 the benefit of the captive insurance company.

148 (e) The state covenants with the purchasers and all subsequent
149 owners and transferees of revenue bonds issued by the authority
150 pursuant to this section, in consideration of the acceptance of the
151 payment for the bonds, until such bonds, together with the interest
152 thereon, with interest on any unpaid installment of interest and all costs
153 and expenses in connection with any action or proceeding on behalf of
154 such owners, are fully met and discharged, or unless expressly
155 permitted or otherwise authorized by the terms of each contract and
156 agreement made or entered into by or on behalf of the authority with or
157 for the benefit of such owners, that the state will collect and apply the
158 pledged revenues and other receipts, funds or moneys pledged for the
159 payment of debt service requirements as provided in this section, in
160 such amounts as may be necessary to pay such debt service
161 requirements in each year in which bonds are outstanding and further,
162 that the state (1) will not limit or alter the duties imposed on the
163 Treasurer and other officers of the state, including those of the authority
164 and the captive insurance company, by law and by the proceedings
165 authorizing the issuance of bonds with respect to application of pledged
166 revenues or other receipts, funds or moneys pledged for the payment of
167 debt service requirements as provided in said sections; (2) will not alter
168 the provisions applying pledged revenues to the debt service
169 requirements with respect to bonds or notes, or impose additional fees
170 or levies on the authority; (3) will not issue any bonds, notes or other
171 evidences of indebtedness, other than the bonds, having any rights
172 arising out of said sections or secured by any pledge of or other lien or
173 charge on the pledged revenues or other receipts, funds or moneys
174 pledged for the payment of debt service requirements as provided in
175 said sections, or authorize the authority to issue any such bonds, notes
176 or other evidences of indebtedness; (4) will not create or cause to be
177 created any lien or charge on such pledged amounts, other than a lien
178 or pledge created thereon pursuant to said sections, provided nothing

179 in this subsection shall prevent the state from issuing evidences of
180 indebtedness (A) which are secured by a pledge or lien which is and
181 shall on the face thereof be expressly subordinate and junior in all
182 respects to every lien and pledge created by or pursuant to said sections;
183 or (B) which are secured by a pledge of or lien on moneys or funds
184 derived on or after such date as every pledge or lien thereon created by
185 or pursuant to said sections shall be discharged and satisfied; (5) will
186 carry out and perform, or cause to be carried out and performed, each
187 and every promise, covenant, agreement or contract made or entered
188 into by the state or on its behalf with the owners of any bonds; (6) will
189 not in any way impair the rights, exemptions or remedies of such
190 owners; and (7) will not limit, modify, rescind, repeal or otherwise alter
191 the rights or obligations of the appropriate officers of the state to impose,
192 maintain, charge or collect the taxes, fees, charges and other receipts
193 constituting the pledged revenues as may be necessary to produce
194 sufficient revenues to fulfill the terms of the proceedings authorizing the
195 issuance of the bonds. The state may amend the amount of the surcharge
196 imposed pursuant to section 38a-331 of the general statutes, as amended
197 by this act, provided such amendment, had it been in effect, would not
198 have reduced the pledged revenues for any twelve consecutive months
199 within the preceding fifteen months to less than an amount three times
200 the maximum debt service payable on bonds issued and outstanding
201 under this section for the current or any future fiscal year. The state may
202 provide that any pledged revenues payable by the authority to the
203 Crumbling Foundations Assistance Fund, established pursuant to
204 section 8-441 of the general statutes, for the benefit of the captive
205 insurance company may be paid over instead to the state or any of its
206 agencies or instrumentalities or pledged for any other purpose. The
207 authority may include this covenant of the state in any agreement with
208 the owner of any such bonds.

209 (f) The captive insurance company, the authority, the Commissioner
210 of Housing, the Insurance Commissioner and the State Treasurer are
211 each authorized to enter into agreements and memoranda of
212 understanding, in accordance with this section and in addition to any

213 other authorization for such agreements and memoranda of
214 understanding, as each shall consider appropriate to advance the
215 purposes of this section. In any such agreement or memoranda, the
216 captive insurance company is authorized to grant a security interest, if
217 any, in its right, title and interest in the pledged revenues to the
218 authority and to the trustee of the authority's revenue bonds, and make
219 filings with respect thereto pursuant to the filing provisions of part 5 of
220 article 9 of title 42a, provided no such grant or filing shall have the effect
221 of establishing any entitlement of the captive insurance company to
222 such pledged revenues or imply that the state shall have waived
223 sovereign immunity with respect thereto.

224 Sec. 6. Section 38a-331 of the general statutes is repealed and the
225 following is substituted in lieu thereof (*Effective July 1, 2021*):

226 (a) (1) There is imposed a twelve-dollar surcharge on the issuance or
227 renewal of each insurance policy providing:

228 (A) Personal risk insurance coverage for an owned dwelling in this
229 state with four or fewer units, except for a mobile home;

230 (B) Coverage for an individual unit in this state that is part of a
231 condominium, as such terms are defined in section 47-68a; or

232 (C) Coverage for an individual unit in this state that is part of a
233 common interest community and exclusively used for residential
234 purposes, as such terms are defined in section 47-202.

235 (2) The surcharge imposed under this subsection shall be assessed on
236 insurance policies issued or renewed during the period beginning on
237 January 1, 2019, and ending on December 31, [2029] 2041. Such
238 surcharge is not premium and shall not be considered premium for any
239 purpose.

240 (b) Payment of the surcharge imposed under subsection (a) of this
241 section shall be the obligation of the person that is first listed as an
242 insured under the policy, provided collection and remittance of such

243 surcharge may be effected in such manner as the insurer, insured and
244 any mortgagee may reasonably determine. Such surcharge is payable in
245 full upon commencement or renewal of coverage, and no portion of
246 such surcharge shall be reimbursed, whether on policy cancellation or
247 otherwise.

248 (c) (1) Acting on behalf of, and as a collection agent of the Healthy
249 Homes Fund established pursuant to section 8-446, each admitted
250 insurer, or, for nonadmitted insurers, one or more surplus lines brokers
251 licensed pursuant to section 38a-794 procuring from the nonadmitted
252 insurer an insurance policy providing coverage of a type described in
253 subdivision (1) of subsection (a) of this section, shall remit to the
254 Insurance Commissioner, not later than the thirtieth day of April
255 annually, all surcharges imposed under subsection (a) of this section on
256 the named insured that were collected during the calendar year next
257 preceding. Each such remittance shall include documentation, in the
258 form and manner prescribed by the commissioner, to substantiate the
259 total surcharge amount being remitted by such insurer or licensee.

260 (2) All such remittances under subdivision (1) of this subsection,
261 except for the amount of remittances equal to the cost of funding an
262 administrative officer position at the Insurance Department to facilitate
263 the surcharge collection, shall be deposited [in the Healthy Homes Fund
264 established in section 8-446. Not later than thirty days after such deposit
265 in the Healthy Homes Fund, eighty-five per cent of such deposits shall
266 be transferred to the Crumbling Foundations Assistance Fund
267 established in section 8-441.] as follows: (A) Eighty-five per cent of such
268 deposits shall be transferred, in accordance with this section, to the
269 Connecticut Housing Finance Authority created pursuant to section 8-
270 244, or if the authority shall not have made any loans to the captive
271 insurance company established pursuant to section 38a-91vv, as
272 amended by this act, to the Crumbling Foundations Assistance Fund
273 established pursuant to section 8-441, and (B) the balance shall be
274 deposited into the Healthy Homes Fund established pursuant to section
275 8-446. Neither the Crumbling Foundations Assistance Fund nor the
276 captive insurance company shall have any right to any of such

277 remittances except under this section or any right to cause such
278 remittances to continue.

279 (3) The surcharge imposed under subsection (a) of this section shall
280 constitute a special purpose assessment for the purposes of section 12-
281 211.

282 (d) The commissioner may adopt regulations, in accordance with
283 chapter 54, to implement the provisions of this section.

284 Sec. 7. (*Effective July 1, 2021*) Not later than July 1, 2022, the captive
285 insurance company established pursuant to section 38a-91vv of the
286 general statutes, as amended by this act, shall submit a report, in
287 accordance with the provisions of section 11-4a of the general statutes,
288 to the joint standing committees of the General Assembly having
289 cognizance of matters relating to insurance and planning and
290 development. Such report shall include, but not be limited to, an
291 analysis of the extent of the damage caused to concrete foundations in
292 nonresidential buildings in the state due to the presence of pyrrhotite in
293 such concrete.

294 Sec. 8. (*Effective July 1, 2021*) The sum of one hundred seventy-five
295 thousand dollars is appropriated to the captive insurance company
296 established pursuant to section 38a-91vv of the general statutes, as
297 amended by this act, from the General Fund, for the fiscal year ending
298 June 30, 2022, for the research and development of a report to determine
299 the extent of the damage caused to concrete foundations in non-
300 residential buildings in the state due to the presence of pyrrhotite in
301 such concrete. Such sum shall not be considered in calculating the total
302 funds allocated or made available to the captive insurance company
303 used for administrative or operational costs pursuant to section 38a-
304 91vv of the general statutes, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	29-265d

Sec. 2	<i>July 1, 2021</i>	38a-91vv(i)
Sec. 3	<i>July 1, 2021</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>July 1, 2021</i>	38a-331
Sec. 7	<i>July 1, 2021</i>	New section
Sec. 8	<i>July 1, 2021</i>	New section

Statement of Purpose:

To (1) permit any owner of a residential building with a foundation made with defective concrete to obtain a reassessment of such building which shall remain valid until such foundation is repaired or replaced, (2) eliminate the termination date of the captive insurance company established pursuant to section 38a-91vv of the general statutes, (3) require quarries that produce aggregate for use in concrete to annually prepare a geological source report, (4) require the Commissioner of Consumer Protection to adopt regulations concerning standards for the testing of aggregate produced by quarries for use in concrete, (5) authorize the Connecticut Housing Finance Authority to make loans to the captive insurance company, and (6) require the captive insurance company to submit a report concerning the damage caused by the presence of pyrrhotite to the concrete foundations of nonresidential buildings in the state.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]